

**REMARKS**

The Applicant thanks the Examiner for the careful consideration of this application. Claims 1, 4, 6-12, 14-17, and 51-87 are currently pending. Claims 1 and 4 have been amended. Claims 2, 3, 5, 13, and 18-50 have been cancelled, without prejudice. New claims 51-87 have been added. The claim cancellations and claim additions maintain the previous amount of total claims (fifty) and the previous amount of independent claims (five). Therefore, no additional claim fees are believed to be due. Based on the foregoing amendments and the following remarks, the Applicant respectfully requests that the Examiner reconsider all outstanding rejections and that they be withdrawn.

Applicant's Record of Substance of the Interview

The Applicant appreciates the courtesy extended by Examiner Rafferty D. Kelly to Applicant's representative, Steven J. Schwarz, during the telephone interview conducted on May 28, 2009. The currently pending independent claims further define what is meant by a "package," as well as the relationship between the "mark" and the "package," as discussed during the interview.

Pursuant to MPEP § 713.04, below is the Applicant's record of the substance of the interview.

- 1) Exhibit shown or demonstration conducted: none.
- 2) Claims discussed: claim 1.
- 3) Specific prior art discussed: U.S. Patent No. 7,089,420 to Durst et al.

Applicant: Harald Gosebruch

Appl. No.: 10/534,425

4) Principal proposed amendments discussed: No specific amendments were discussed. General amendments were discussed, as set forth below in section 5.

5) Principal arguments presented to the Examiner: Independent claims were discussed with respect to Durst et al. Possible amendments were discussed in order to overcome the rejections based on this reference. Specifically, the concept of what a “package” is and how the identification mark relates to this “package” were indicated as possible areas for clarification. Further, it was indicated that more clearly defining the random identifier (see specification page eight) could also help overcome the Durst reference.

6) Other pertinent matters discussed: None.

7) Results or outcome of interview: Not applicable.

#### Rejections under 35 U.S.C. § 102

The Office Action rejected claims 1-12, 14-16, and 18-49 under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 7,089,420 to Durst et al. (“Durst”). Solely to facilitate further prosecution, independent claim 1 has been amended and claims 2, 3, 5 and 18-50 have been cancelled. The Applicant traverses this rejection.

Claim 1 has been amended to clarify that the package comprises “a three dimensional box defined by a plurality of wall segments interconnected by folds, the wall segments formed of a fibrous material.” Claim 1 has also been amended to clarify that the non-predetermined random identifier comprises “a distribution of luminophores intermixed with fibers of the fibrous material.” The Applicant submits that claim 1 is patentable over Durst for at least the following

reasons.

**First**, Durst's FIG. 6 does not disclose "a three dimensional box defined by a plurality of wall segments interconnected by folds," as recited by claim 1. The Office Action apparently aligns the authentication certificate 50 of Durst's FIG. 6 with the "package" of claim 1. However, the authentication certificate 50 is not "a three dimensional box defined by a plurality of wall segments interconnected by folds," as recited in amended claim 1. Rather, authentication certificate 50 is a two-dimensional (flat) sheet that lacks any folds. (See Durst at FIG. 6.) Therefore, Durst's FIG. 6 does not disclose "a three dimensional box defined by a plurality of wall segments interconnected by folds."

**Second**, the seal tape 58 of Durst's FIG. 7A is not one of "a plurality of wall segments interconnected by folds, the wall segments formed of a fibrous material" as recited by claim 1. According to an alternate interpretation of Durst, the Office Action apparently aligns the seal tape of FIG. 7A with the "material" of the package from previous claim 1 (now the "fibrous material"). However, the seal tape 58 is not one of "a plurality of wall segments interconnected by folds," as claimed. Rather, the seal tape 58 is an additional piece of tape that could be *applied over* one of the claimed "wall segments" to seal them together. (See Durst at col. 45, ll. 24-28.) Therefore, Durst's seal tape 58 is not one of "a plurality of wall segments interconnected by folds, the wall segments formed of a fibrous material."

**Third**, Durst does not disclose a "non-predetermined random identifier," as recited by claim 1. The Office Action apparently aligns the dichroic fibers 53 of Durst's FIG. 6, and/or the dichroic fibers 60A of Durst's FIGS. 7A-B with the claimed "non-predetermined random

identifier.” However, Durst expressly discloses that the dichroic fibers 53 and the dichroic fibers 60A are *predetermined*. For example, Durst discloses that “the start of the process 42 leads to the *definition* of a dichroic fiber pattern.” (Durst at col. 45, ll. 4-6 (emphasis added); see also FIG. 5.) This is in direct contrast to claim 1, which recites “a non-predetermined random identifier.”

The Applicant submits that claim 1 is patentable over Durst for at least the foregoing reasons. Claims 4, 6-12, 14-17, and 51 depend from claim 1, and are patentable over Durst for at least the same reasons.

#### Rejections under 35 U.S.C. § 103

(1) The Office Action rejected claim 50 under 35 U.S.C. § 103(a) as being obvious over Durst. Claim 50 has been cancelled, without prejudice, thereby rendering this rejection moot.

(2) The Office Action rejected claim 17 under 35 U.S.C. § 103(a) as being obvious over Durst in view of U.S. Patent No. 6,155,025 to Komiya (“Komiya”). Claim 17 depends indirectly from claim 1, which, as demonstrated above, is patentable over Durst. Komiya does not remedy the deficiencies of Durst. Accordingly, the Applicant submits that claims 1 and 17 are patentable over any reasonable combination of Durst and Komiya.

#### New Independent Claims 52, 66, 73, and 84

New independent claims 52, 66, 73, and 84 have been added to define further exemplary relationships between the “package” and the “mark.” Each of these independent claims will be

addressed individually below.

(1) Claim 52

Claim 52 recites “a three dimensional box . . . a foil wrapping surrounding the three dimensional box; and a mark for identification of the package . . . comprising a distribution of luminophores permeating the foil wrapping.” None of the cited prior art, considered alone or in combination, discloses this claimed arrangement.

(2) Claim 66

Claim 66 recites “a three dimensional box . . . including a first portion and a second portion connected by a hinge . . . wherein the first portion and the second portion define a gap width when in the closed position . . . wherein the mark comprises a non-predetermined random identifier comprising the gap width.” None of the cited prior art, considered alone or in combination, discloses this claimed arrangement.

(3) Claim 73

Claim 73 recites “a three dimensional box . . . a foil wrapping surrounding the three dimensional box, the foil wrapping including a first portion overlapping a second portion in an overlap region; and a mark for identification of the package, wherein the mark comprises . . . at least a portion of the overlap region. None of the cited prior art, considered alone or in combination, discloses this claimed arrangement.

(4) Claim 84

Claim 84 recites “a three dimensional box . . . a foil wrapping surrounding the three dimensional box; a label located on the three dimensional box or on the foil wrapping; ink

Applicant: Harald Gosebruch

Appl. No.: 10/534,425

printing located on the label; and a mark for identification of the package, wherein the mark comprises . . . luminophores added to the ink printing.” None of the cited prior art, considered alone or in combination, discloses this claimed arrangement.

The Applicant submits that independent claims 52, 66, 73, and 84 are patentable for at least the foregoing reasons. Claims 53-65, 67-72, 74-83, and 85-87 depend variously from these claims, and are patentable for at least the same reasons.

### **Conclusion**

All of the stated grounds of rejection have been properly traversed, accommodated, or rendered moot. Applicant, therefore, respectfully requests that the Examiner reconsider all presently outstanding rejections and that they be withdrawn. Applicant believes that a full and complete reply has been made to the outstanding Office Action and, as such, the present application is in condition for allowance. If the Examiner believes, for any reason, that personal communication will expedite prosecution of this application, the Examiner is hereby invited to telephone the undersigned at the number provided.

Applicant: Harald Gosebruch

Appl. No.: 10/534,425

Prompt and favorable consideration of this Amendment is respectfully requested.

Respectfully submitted,

Date: July 13, 2009

/Steven J. Schwarz/

Steven J. Schwarz

Registration No. 47,070

VENABLE LLP

P.O. Box 34385

Washington, DC 20043-9998

Telephone: (202) 344-4000

Direct Dial: (202) 344-4295

Telefax: (202) 344-8300

#1035442